

Message Text

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TO AMEMBASSY PRETORIA

INFO AMCONSUL CAPE TOWN

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AMCONSUL JOHANNESBURG

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C O N F I D E N T I A L STATE 180967

E.O. 11652: GDS

TAGS: SF, SHUM, PINT, PINS, PORG

SUBJECT: VAN ROOYEN COMMISSION

REFS: (A) STATE 145099; (B) PRETORIA 3290;
(C) JOHANNESBURG 1541

1. GRATEFUL YOUR HELPFUL REVIEW OF THE VAN ROOYEN COMMISSION'S REPORT AND TRANSLATION IMPORTANT PASSAGES. LOOK
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FORWARD TO RECEIVING TRANSLATED ENGLISH TEXT WHEN AVAILABLE. YOUR REFERENCE TO APPRAISAL BY CHRISTIAN INSTITUTE IS HELPFUL AND DEPARTMENT WOULD LIKE TO RECEIVE COPY OF ITS FULL STATEMENT WITH REASONING AND SUCH FURTHER INFORMATION AS MAY DEVELOP ON SUBJECT.

2. DEPARTMENT SUGGESTS INFORMAL BUT SERIOUS MENTION BY AMB

TO FOREIGN MINISTER, E.G. IN COURSE ANY SOCIAL OR BUSINESS EXCHANGE, OF POSSIBLE CONSEQUENCES HERE IF LEADING MEMBERS AMERICAN BAR (E.G. LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW) ARE PREVENTED AT THIS TIME FROM CONTINUING THEIR DECADE-OLD OPEN AND PROFESSIONAL ASSISTANCE TO THEIR COUNTERPARTS IN SA IN MATTERS' WHOLLY LAW-ABIDING DISCHARGE OF THEIR PROFESSIONAL RESPONSIBILITY: (1) TO DEFEND PERSONS FACING SERIOUS CRIMINAL CHARGES WITH POLITICAL OR SECURITY OVERTONES; AND (2) TO REPRESENT IN CIVIL LAW SUITS INDIGENT

CLIENTS WHO MAY SUFFER LEGAL WRONGS FOR POLITICAL REASONS. WHILE TECHNICALLY ACCURATE THAT "SOUTH AFRICAN SYSTEM OF JUSTICE MAKES PROVISION FOR LEGAL REPRESENTATION WITHOUT COSTS" (VAN ROOYEN COMMISSION REPORT), EXPERIENCE HAS SHOWN THAT BLACKS FACING CRIMINAL CHARGES WITH POLITICAL OR SECURITY OVERTONES, AND TO LESSER DEGREE WHITES IN SAME POSITION, DO NOT HAVE ADEQUATE LEGAL DEFENSE. THIS ESSENTIAL POINT IS DEVELOPED FURTHER IN AIRGRAM A3184 OF AUG 2.

3. CONSEQUENCES HERE WILL BE TO ENTRENCH GROWING AWARENESS OF UNFAIRNESS OF SOUTH AFRICAN JUDICIAL SYSTEM BROUGHT ABOUT BY MOUNTING CRIPPLING SUBSTANTIVE AND PROCEDURAL LEGAL CHANGES WHICH WOULD BE IMPORTANTLY MAGNIFIED BY IMPLEMENTING VAN ROOYEN RECOMMENDATION. ENTRENCHING SUCH AWARENESS WILL FURTHER ERODE ABILITY OF SAG TO ACHIEVE UNDERSTANDING OR PATIENCE IN US, SINCE CONCESSION MOST CONFIDENTIAL

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OFTEN MADE BY CRITICS OF APARTHEID WAS THAT SOUTH AFRICA HAD A STRONG TRADITION OF FAIRNESS AND JUSTICE IN ITS COURTS.

4. IN RELATION TO THE BEGIN UNDERSCORE BEELD'S END UNDERSCORE ALLEGATION (REF B) AND EVEN MORE BASELESS ALLEGATIONS AND INNUENDOS OF THE BEGIN UNDERSCORE CITIZENS END UNDERSCORE OF JUNE 17, (REF C) AMBASSADOR MIGHT WISH LEAVE WITH FOREIGN MINISTER COPIES REPORTS OF LAWYERS' COMMITTEE POUCHED WITH (A-3079 TO JOHANNESBURG OF JULY 25, 1977) AND CALL HIS ATTENTION TO BOARD OF TRUSTEES; INCLUDING ITS EXECUTIVE COMMITTEE. MANY IF NOT MOST NAMES WILL BE FAMILIAR TO FOREIGN MINISTER BOTH AS THEY ARE SOME OF THE MOST RESPECTED MEMBERS OF THE AMERICAN BAR FROM EVERY SECTION OF THE COUNTRY. THE IDEA THAT THEY ARE OTHERWISE THAN PROFESSIONALLY MOTIVATED IN THE WORK THEY DO BEGIN UNDERSCORE GRATIS END UNDERSCORE FOR THE COMMITTEE IS RIDICULOUS AND WILL, NEEDLESS TO SAY, BE GIVEN SHORT SHRIFT IN THIS COUNTRY, IN EUROPE AND ELSEWHERE IN THE WESTERN WORLD. ACCOMPANYING REPORTS IS RECENT SPEECH OF A MEMBER OF THE EXECUTIVE COMMITTEE OF THE LAWYERS' COMMITTEE, WILLIAM B. SPANN, JR. OF ATLANTA, GEORGIA, WHO IS ALSO PRESIDENT-ELECT

OF THE AMERICAN BAR ASSOCIATION.

5. OFFICES OF SENATORS HUMPHREY, CLARK AND KENNEDY, AS WELL AS SEVERAL CONGRESSMEN, INCLUDING CONGRESSMEN FRASER AND DIGGS, HAVE RECENTLY REAFFIRMED TO DEPARTMENT IMPORTANCE THEY ATTACH TO KEEPING OPEN EXISTING CHANNELS FOR COOPERATION BETWEEN LEGAL PROFESSION IN US AND SA FOR LEGAL DEFENSE. MATTER HAS ALSO EVOKED CONCERN OF NATIONAL SECURITY COUNCIL STAFF MEMBER RICHARDSON.

6. DEPARTMENT WILL BE INTERESTED LEARN WHETHER AWARENESS OF IMPLICATIONS OF REPORT FOR FUTURE OF LEGAL DEFENSE IN SA IS DEVELOPING AMONG PERSONS OUTSIDE CHRISTIAN INSTITUTE SUCH AS BAR COUNCILS CAPE TOWN AND JOHANNESBURG, LAW
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SOCIETIES, LEADING LEGAL ACADEMICS (E.G. DUGARD AND MATHEWS), SIGNIFICANT DEFENSE LAWYERS (E.G. KENTRIDGE, TUCKER, BIZOS, CHETTY, SOGOTT, WENTZEL, DALLAS, RICHMAN) INTERESTED PARLIAMENTARIANS (E.G. SUZMAN, H.A. PITMAN). HAS MATTER BEEN SUBJECT DISCUSSION IN PRESS, PUBLICATION; OF IRR, MAGAZINES SUCH AS BEGIN UNDERSCORE OUTLOOK END UNDERSCORE, OR IN LEGAL PERIODICALS? ARE THERE INDICATIONS AS YET OF INTENTION AMONG ANY SOUTH AFRICANS TO SEEK MEANS TO DISCOURAGE IN TIMELY PROPOSAL RE FUNDING OF DEFENSE?

7. DEPT WILL ALSO APPRECIATE EMBASSY'S ANALYSIS OF CONSEQUENCES OF PROVISIONS NEW CRIMINAL PROCEDURES ACT. PLEASE POUCH TEXT AND BEST INFORMED NEWS, LEGAL AND OTHER COMMENTARY. DEPT NOTES HARRY PITMAN FOR ONE HAS ANALYZED AND CRITICIZED ACT IN PARLIAMENTARY DEBATES. ACT CLEARLY HAS IMPORTANT IMPLICATIONS FOR DEFENSE OF CASES OF TYPE ABOVE DISCUSSED. CHRISTOPHER

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